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**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

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In the Matter of  
  
2000 Biennial Regulatory Review  
  
Policy and Rules Concerning the International,  
Interexchange Marketplace

IB Docket No. 00-202

**COMMENTS  
of the  
GENERAL SERVICES ADMINISTRATION**

GEORGE N. BARCLAY  
Associate General Counsel  
Personal Property Division

MICHAEL J. ETTNER  
Senior Assistant General Counsel  
Personal Property Division

GENERAL SERVICES ADMINISTRATION  
1800 F Street, N.W., Room 4002  
Washington, D.C. 20405  
(202) 501-1156

**Economic Consultants:**

Snavely King Majoros O'Connor & Lee, Inc.  
1220 L Street, N.W., Suite 410  
Washington, D.C. 20005

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## **Summary**

In these Comments, GSA addresses issues concerning detariffing of international mass market and contract services provided by non-dominant interexchange carriers (“IXCs”). GSA concurs with the Commission’s tentative conclusion that requirements for non-dominant IXCs to file tariffs are not necessary to protect consumers. Indeed, the present tariffing rules limit the development of competition. Thus, GSA urges the Commission to prescribe procedures for transitioning to a regime without filed tariffs for international services as rapidly as possible.

From GSA’s experience as an end user, permissive detariffing is not adequate because of possible adverse effects from the filed-rate doctrine. GSA explains that it is inequitable for carriers to have the ability to disavow the rates, terms and conditions that they have proposed. These contract terms may have been a significant factor in selection from among alternative bidders in a competitive procurement. Since tariffs can disrupt the acquisition process and contract implementation, GSA urges the Commission to prescribe broad detariffing requirements including Commercial Mobile Radio Services (“CMRS”), with only two specific exceptions identified in the Notice.

Although detariffing will be beneficial, GSA agrees with the Commission that consumers need timely information in order to identify and evaluate available rate plans. GSA concurs with the procedures outlined in the Notice for providing information on international services to consumers, and recommends primary reliance on the proposed rule that carriers maintain current and complete descriptions of services on their Internet websites. Since information should always be available, GSA recommends that the Commission require carriers to post data on websites as soon as the corresponding tariffs are canceled and withdrawn. For new services, GSA recommends that information be available on the initial date of service, or even earlier if a carrier wishes to employ this procedure as a means of advertising a service.

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IB Docket No. 00-202

**COMMENTS  
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GENERAL SERVICES ADMINISTRATION**

The General Services Administration ("GSA") submits these Comments on behalf of the customer interests of all Federal Executive Agencies ("FEAs") in response to the Notice of Proposed Rulemaking in IB Docket No. 00-202 ("Notice") released on October 18, 2000. The Notice seeks comments and replies on issues concerning detariffing of international services of non-dominant interexchange carriers ("IXCs").

**I. INTRODUCTION**

Pursuant to Section 201(a)(4) of the Federal Property and Administrative Services Act of 1949, as amended, 40 U.S.C. 481(a)(4), GSA is vested with the responsibility to represent the customer interests of the FEAs before Federal and state regulatory agencies. From their perspective as end users, the FEAs have consistently supported the Commission's efforts to bring the benefits of competitive markets to consumers of all telecommunications services.

On October 31, 1996, the Commission released the *Detariffing Order*, which directed non-dominant IXC's to cancel their tariffs for interstate, domestic, interexchange services by the end of a nine-month transition period starting at the effective date of the order.<sup>1</sup> Although the order became effective in December 1996, it was stayed because of numerous challenges. On April 28, 2000, the Court of Appeals for the District of Columbia Circuit lifted the most recent stay, allowing the Commission's requirements for mandatory detariffing of domestic interexchange services to become effective after nearly four years of litigation.<sup>2</sup>

Shortly after the stay was lifted, the Commission released a Public Notice addressing tariffing requirements for bundled domestic and international services.<sup>3</sup> In Comments responding to that Public Notice, GSA explained that requirements for non-dominant IXC's to file tariffs for bundled domestic and international services are no longer necessary to protect consumers.<sup>4</sup>

In the instant Notice, the Commission proposes to extend mandatory detariffing to encompass nearly all international services.<sup>5</sup> GSA submits these Comments supporting this pro-competitive policy, and urges the Commission to eliminate the tariffing obligations as soon as possible.

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<sup>1</sup> *In the Matter of Policy and Rules Concerning the Interstate, Interexchange Marketplace*, Second Report and Order, CC Docket No. 96-61, released October 31, 1996 ("*Detariffing Order*").

<sup>2</sup> *Id.*, Second Order on Reconsideration, *stay lifted and aff'd*, *MCI WorldCom, Inc., et al. v. FCC*, 209 F.3d 760 (D.C. Cir. April 28, 2000).

<sup>3</sup> CC Docket No. 96-61, Public Notice, released May 9, 2000.

<sup>4</sup> *Id.*, Comments of GSA, May 31, 2000, p. 4.

<sup>5</sup> Notice, para. 14.

## **II. TARIFFING REQUIREMENTS IMPAIR EXECUTION OF CONTRACTS AND LIMIT COMPETITION FOR INTERNATIONAL SERVICES.**

The Commission proposes to adopt a policy of “complete detariffing” for international services.<sup>6</sup> This policy would cancel tariffs for international services and prohibit carriers from filing new tariffs, with exceptions for several specific conditions.<sup>7</sup> The Commission explains that complete detariffing will enhance competition among the carriers providing international services, and achieve other objectives in the public interest. The benefits include elimination of the possibility of the filed-rate doctrine interfering with customer arrangements and extension to international services of market conditions that more closely reflect an unregulated telecommunications environment.<sup>8</sup>

Federal Agencies require international services provided by many carriers pursuant to mass market and contract tariffs. From GSA's perspective, it is inequitable for carriers to have the ability to disavow the rates, terms and conditions that they have proposed. Indeed, the contract terms in question may have been a significant factor in selection from among alternative bidders in a competitive procurement process.

In addition to permitting carriers to avoid contract obligations, the filed-rate doctrine also has the perverse effect of limiting responses to requests for bids. Indeed, the Commission has cited reports by end users that carriers have refused to respond to customers' requests because the Commission could at some indeterminate future time reject a rate, term or condition for service that differed from the filed tariff.<sup>9</sup>

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<sup>6</sup> *Id.*, para. 14.

<sup>7</sup> *Id.*, and paras. 20–21.

<sup>8</sup> *Id.*, para. 21.

<sup>9</sup> *Detariffing Order*, para. 54 (footnotes omitted).

In addressing domestic services, the Commission concluded that because of the importance of preserving contractual relationships, carriers should be permitted to file tariffs only in two limited circumstances.<sup>10</sup> Paralleling these specific exceptions, the Commission concludes that international service detariffing should be permissive, but not mandatory, in two cases: (1) “dial-around 1+ services” using a 10-10-XXX access code; and (2) during the initial 45 days of service, or until there is a written contract between the carrier and the customer, and the customer contacts the LEC to select an IXC or to initiate a change in its presubscribed carrier.<sup>11</sup>

The Commission explains that the first of these exceptions is justified because IXCs do not provide, on-line, the charges for dial-around calls.<sup>12</sup> In the first place, a technology allowing an IXC to distinguish dial-around 1+ calls from direct dial 1+ calls has not been generally deployed, and equipment to provide on-line announcements on charges for dial-around calls is not currently economical. The Notice postulates that until these obstacles are overcome, mandatory detariffing of dial-around 1+ calls would not be in the public interest.<sup>13</sup>

Concerning the proposed exception for new services, the Notice explains that when a customer contacts a LEC in order to select an IXC or initiate a change in presubscribed interexchange carrier, the IXC has no direct contact with the customer and may not be able to ensure that a legal relationship is established with that customer for some time.<sup>14</sup> To protect the intentions of the consumer and IXC in these instances, the Commission suggests allowing IXCs to file tariffs for LEC-implemented

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<sup>10</sup> Notice, para. 20.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*, para. 21.

<sup>13</sup> *Id.*, para. 20.

<sup>14</sup> *Id.*, para. 21

new services for 45 days or until there is a written contract between the carrier and the customer, whichever is sooner.<sup>15</sup> The Commission recently adopted this procedure for domestic interexchange services.<sup>16</sup>

GSA concurs with the Commission's tentative conclusions that these two exceptions for permissive detariffing are in the public interest. However, in all other cases, mandatory detariffing will provide greater benefits to consumers.

In a series of proceedings, the Commission determined that the public interest is served by opening U.S. markets to competition from carriers based in other nations and by streamlining rules governing the provision of international services by U.S.-based carriers.<sup>17</sup> As a result of these deregulatory policies, there have been substantial increases in competition among service providers in the international marketplace.<sup>18</sup> Also, consumers have enjoyed the benefits of per-minute rate reductions averaging 10 percent per year for all international routes for the past several years.<sup>19</sup> GSA urges the Commission to continue this significant trend by taking pro-competitive steps to detariff international services under the conditions described in the Notice.

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15 *Id.*

16 *Id.*

17 See, for example, *In the Matter of Rules and Policies on Foreign Participation in the U.S. Telecommunications Market*, IB Docket Nos. 97-142 and 95-22; *In the Matter of International Settlement Rates*, IB Docket No. 96-261; and *In the Matter of 1998 Biennial Regulatory Review, Reform of the International Settlements Policy and Associated Filing Requirements*, IB Docket Nos. 98-148 and 95-22, and CC Docket No. 90-337.

18 Notice, para. 4.

19 *Id.*, para. 11.



### **III. CARRIERS SHOULD DISPLAY INFORMATION DESCRIBING THEIR INTERNATIONAL SERVICES ON INTERNET WEBSITES.**

While proposing mandatory detariffing, the Notice states that consumers need timely information in order to identify and evaluate available rate plans.<sup>20</sup> Therefore, the Notice describes a series of proposed disclosure requirements that provide information for consumers and also provide data for the Commission to ensure carrier compliance with the Telecommunications Act.<sup>21</sup>

As a primary information source, the Commission proposes to extend to international services the requirement that carriers maintain current information on the rates, terms and conditions for all mass market offerings on their Internet websites.<sup>22</sup> Also, carriers would be required to maintain information in hardcopy form at a location open during regular business hours.<sup>23</sup> In addition, carriers would be required to provide service information, including notice of rate changes, with bills to their customers.<sup>24</sup> Moreover, carriers would be required to inform the public exactly where information is available when responding to consumer inquiries and complaints.<sup>25</sup>

GSA concurs with these disclosure requirements. Indeed, in its Reply Comments on detariffing bundled domestic and international services, GSA endorsed website posting as the primary means of providing information to consumers.<sup>26</sup> As GSA explained, information should always be available to consumers either in tariff

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<sup>20</sup> *Id.*, para. 22.

<sup>21</sup> Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, codified at 47 U.S.C. § 151 *et seq.* ("Telecommunications Act").

<sup>22</sup> Notice, para. 23.

<sup>23</sup> *Id.*, para. 25.

<sup>24</sup> *Id.*, para. 22.

<sup>25</sup> *Id.*, para. 25.

<sup>26</sup> CC Docket No. 96-61, Reply Comments of GSA, June 9, 2000, p. 7.

form or on websites.<sup>27</sup> Therefore, GSA recommends that the Commission require carriers to begin maintaining data describing international services on Internet websites as soon as tariffs are canceled and withdrawn. For new offerings, GSA recommends that data be available on the initial date of service, or earlier if a carrier wishes to post the information as a means of promoting its offering.

#### **IV. MANDATORY DETARIFFING SHOULD EXTEND TO INTERNATIONAL COMMERCIAL MOBILE RADIO SERVICES.**

In 1994, the Commission adopted mandatory detariffing of domestic Commercial Mobile Radio Services ("CMRS").<sup>28</sup> Four years later, the Commission prescribed permissive detariffing of international CMRS for most routes.<sup>29</sup> In the instant Notice, the Commission offers the tentative conclusion that detariffing of international CMRS should also be mandatory at the present time.<sup>30</sup>

GSA concurs with the Commission that mandatory detariffing should be extended to international mobile services. Permissive detariffing allows carriers to cite the filed-rate doctrine as a means of avoiding contract obligations. Thus, the most significant advantages of detariffing are not being realized for international mobile services. GSA urges the Commission to implement mandatory detariffing of international CMRS to achieve the same benefits as for their wireline service counterparts.

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<sup>27</sup> *Id.*, p. 8.

<sup>28</sup> *In the Matter of Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory treatment of Mobile Services*, Second Report and Order, 9 FCC Rcd 1411 (1994).

<sup>29</sup> *In the Matter of Personal Communications Industry Associations' Broadband Personal Communications Services Alliance's Petition for Forbearance*, Memorandum Opinion and Order and Notice of Proposed Rulemaking, 13 FCC Rcd 16,857 (1998).

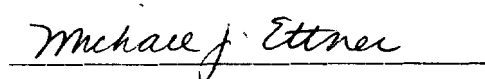
<sup>30</sup> Notice, para. 5.

## V. CONCLUSION

As a major user of telecommunications services, GSA urges the Commission to implement the recommendations set forth in these Comments.

Respectfully submitted,

GEORGE N. BARCLAY  
Associate General Counsel  
Personal Property Division



MICHAEL J. ETTNER  
Senior Assistant General Counsel  
Personal Property Division

GENERAL SERVICES ADMINISTRATION  
1800 F Street, N.W., Rm. 4002  
Washington, D.C. 20405  
(202) 501-1156

November 17, 2000

## CERTIFICATE OF SERVICE

I, MICHAEL J. ETTNER, do hereby certify that copies of the foregoing "Comments of the General Services Administration" were served this 17th day of November, 2000, by hand delivery or postage paid to the following parties.

The Honorable William E. Kennard,  
Chairman  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

The Honorable Harold Furchtgott-Roth,  
Commissioner  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

The Honorable Susan Ness,  
Commissioner  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

The Honorable Gloria Tristani  
Commissioner  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C 20554

The Honorable Michael K. Powell  
Commissioner  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C 20554

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12th Street, S.W. TW-A325  
Washington, D.C. 20554

Ms. Peggy Reitzel  
International Bureau  
Federal Communications Commission  
445 12th Street, S.W., Room 6-A822  
Washington, D.C. 20554

Editorial Offices  
Telecommunications Reports  
1333 H Street, N.W., Room 100-E  
Washington, D.C. 20005

Ms. Edith Herman  
Senior Editor  
Communications Daily  
2115 Ward Court, N.W.  
Washington, D.C. 20037

International Transcription Service  
1231 20th Street, N.W.  
Washington, D.C. 20554

Michael J. Ettner